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REMARKS

This paper is responsive to a non-final Office Action dated June 24, 2004. Claims 1-28 were examined.

Rejections under 35 U.S.C. §112

The Office has rejected claims 4 and 5 for insufficient antecedent basis. Claims 4 and 5 have been amended to satisfy antecedent basis.

Rejections under 35 U.S.C. §103(a)

The Office has rejected claims 1 – 28 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,954,820 granted to Hetzler in view of U.S. Patent No. 6,574,740 granted to Odaohhara and Naitoh (*Odaohhara*). Applicant respectfully traverses all of these rejections.

The combination of *Hetzler* and *Odaohhara* does not disclose or teach “determining utilization of the integrated circuit; comparing the determined utilization to a threshold utilization value” as recited in claim 1, and similarly recited in claims 10, 19, and 23. The Office Action argues that *Odaohhara* explicitly teaches the above quoted limitations of claims 1, and admits that *Hetzler* does not disclose or teach the claim limitations. However, *Odaohhara* does not teach or disclose these limitations. *Odaohhara* determines a predicted maximum power consumption (Pmax) and adjusts performance state of a CPU accordingly (Figure 4; col. 10, lines 9 – 61).

The Pmax disclosed by *Odaohhara* is a “sum of the actual power consumption of the base loads and the maximum power consumption of the CPU 13” (col. 9, lines 30 – 34). The base loads comprise power consumption of an LCD and other devices of the computer system illustrated in Figure 1 (col. 9, lines 15 – 30). The power consumption of the CPU is not determined in *Odaohhara*. The calculation for Pmax utilizes a maximum power consumption, not the actual CPU power consumption. Figures 2 and 5 illustrate the maximum power consumption of the CPU, which includes the actual CPU consumption. *Odaohhara* states that “[a]ctual power consumption of the CPU 12 as shown by the area 103, is varying in accordance with an executing program within the range of maximum power consumption of the CPU 13”

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(col. 10, lines 9 – 25), **but the actual power consumption by the CPU is not determined.** *Odaohhara* never discloses or teaches determining utilization of the CPU.

With regard to dependent claim 3, the Office Action provides no support for its rejection of claim 3 beyond a statement that claim 3 would be obvious. There is no citation to any reference. The Office Action only recites language from claim 3 and states that it would be an obvious design choice. Indeed, “[i]t is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based” (MPEP 2144.03, citing *In re Zurko*, 258 F.3d 1379 (Fed. Cir. 2001)). “[A]n assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support” (MPEP 2144.03, citing *Id.*).

With regard to claims 4 and 5, the Office Action states that “Oda teaches comparing the utilization to a second threshold and entering a lower performance state as the next performance state if the utilization is below the second threshold” (page 4 of the Office Action). However, *Odaohhara* actually discloses changing the CPU to a lower power consumption operation mode when the Pmax exceeds a reference power value (Figures 2, 4, and 5; col. 10, lines 9 – 61).

Furthermore, the motivation suggested by the Office Action for combining *Hetzler* and *Odaohhara* is similarly flawed. The Office Action states that “it would have been obvious to include the teachings of Oda into the Hetzler system because Oda teaches a means to determine when it is necessary to increase the performance of the system without being wasteful” (page 3 of the Office Action). As already stated and in contrast to the statement in the Office Action, *Odaohhara* changes the CPU to an operation mode that consumes less power when the Pmax exceeds a threshold power value.

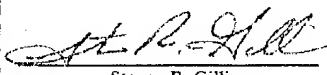
None of the art of record, standing alone or in combination, discloses or suggests any of Applicant’s claims. Applicant respectfully submits that all of the claims are allowable over the art of record.

Conclusion

In summary, claims 1 – 28 are in the case. All claims are believed to be allowable over the art of record, and a Notice of Allowance to that effect is respectfully solicited. Nonetheless,

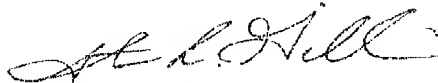
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if any issues remain that could be more efficiently handled by telephone, the Examiner is requested to call the undersigned at the number listed below.

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 Steven R. Gilliam	<u>Sep-24-2004</u> Date

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Respectfully submitted,



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